P.R. No. 23/06
Presented by Shri Sampat Lodhi
dated 01/11/06

CP 591

(1)

IN THE HIGHCOURT OF JUDICATURE AT BILASPUR

S.A. No. 05 /2006 S.B. Single Bench

APPELLANT/
Defendent No.1 : Pardeshi S/0 Govind Lodhi aged about 65 years R/o village Dhumka Tahsil &District – Rajnandgaon (C.G.)

VERSUS

RESPONDENTS/
Plaintiff : **1.** Iswari S/o Sampat Lodhi aged about 32 years R/o village Dhumka Tahsil & Distt-Rajnandgaon

: 2. State of Chhattisgarh Through collector Rajnandgaon (C. G.)

SECOND APPEAL U/S 100 OF THE CODE OF CIVIL PROCEDURE

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(29)

आदेश पत्रक

मामला क्रमांक S.A NO. 5/2006 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

20/03/2006

Shri C.R. Sahu, Counsel for the appellant.

None for respondent No. 1.

Shri J.N. Nande, Panel Lawyer for respondent No.2/State.

Heard on admission and on M,.C.P.No.17/2006.

Respondent No.1/plaintiff filed civil suit for possession and permanent injunction against the appellant in respect of the suit land. Appellant contested the suit *inter alia* on the ground that the suit land has been purchased by him and he has acquired the right by adverse possession.

Learned lower Court after due evaluation of the evidence recorded finding that the suit land was purchased by respondent No.1 by registered sale deed dated 19/04/1976 and the same land was purchased by the appellant subsequently vide sale deed dated 19/05/1985. The suit was filed on 06/04/1994. Appellant himself has pleaded that he has purchased the suit land on 19/05/1985 and from evidence established his possession after 1985. Therefore, appellant being subsequent purchaser does not acquire any title over the suit land and his possession was also not for 12 years or more than 12 years, therefore, decreed the suit for possession and permanent injunction.

First Appellate Court vide judgment and decree dated 07/12/2005 passed in Civil Appeal No.31-A/2005 held that the learned lower Court after appreciating the evidence and document correctly held respondent No.1 owner of the suit land and also

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XI-HC-22

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

correctly held that the appellant is not in possession over the suit land for 12 years or more and, therefore, dismissed the appeal.

It is apparent that respondent No.1 has been held by both the courts below the title holder of the suit land and possession of the appellant over the suit land to be unauthorized. The dispute completely rests on facts and has been decided by lower Court after due appreciation of the evidence.

In my opinion, the appeal does not involve any substantial question of law, therefore, the appeal is liable to be dismissed summarily and is accordingly dismissed.

In the light of above order, M.C.P.No.17/2006 and IA No. 39/2006 for urgent hearing stands disposed of.

Sd/-
V.K.Shrivastava
Judge

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